

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DAVID E. BEAL,)	
Plaintiff,)	
)	
vs.)	Civil Action No. 13-595
)	Judge Mark R. Hornak/
)	Magistrate Judge Maureen P. Kelly
WESTMORELAND COUNTY PA;)	
WESTMORELAND COUNTY PRISON;)	
WEXFORD HEALTH SOURCES, INC.;)	
JOHN R. WALTON <i>Warden W.C.P.</i> ;)	
STEVEN J. CMAR <i>Deputy Warden W.C.P.</i>)	
DONALD G. GRAHAM <i>Nurse</i>)	
<i>Practitioner</i> ; SANDY DAVID <i>Wexford</i>)	
<i>Medical H.S.A.</i> ; P.T. GROUP PHYSICAL)	
THEROPY; AARON TUSCAN <i>D.P.T.</i>)	
<i>Physical Therapy Group, individually and</i>)	Re: ECF No. 32
<i>In their official capacity,</i>)	
Defendants.)	

ORDER

AND NOW, this 11th day of October, 2013, upon consideration of Plaintiff's Motion to Amend "Add" Defendants to Lawsuit, ECF No. 32, in which he seeks to add Joon Y. Lee, M.D., an orthopedic surgeon at U.P.M.C., and Amanda Britton, PA-C Assistant, who works in Dr. Lee's office, as defendants in this lawsuit, and it appearing from the factual allegations contained in Plaintiff's Motion that neither Dr. Lee nor Ms. Britton are state actors and, thus, cannot be held liable to Plaintiff under the Civil Rights Act, 42 U.S.C. § 1983, see Kaucher v. Cnty. of Bucks, 455 F.3d 418, 423 (3d Cir. 2006), and it further appearing that it would be futile to allow Plaintiff to amend the Complaint in this manner, see Fletcher-Harlee Corp. v. Pote Concrete Contractors, Inc., 482 F.3d 247, 251 (3d Cir. 2007),

IT IS HEREBY ORDERED that Plaintiff's Motion to Amend "Add" Defendants to

Lawsuit, ECF No. 32, is DENIED.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72.C.2 of the Local Rules of Court, the parties are allowed fourteen (14) days from the date of this Order to file an appeal to the District Judge which includes the basis for objection to this Order. Any appeal is to be submitted to the Clerk of Court, United States District Court, 700 Grant Street, Room 3110, Pittsburgh, PA 15219. Failure to file a timely appeal will constitute a waiver of any appellate rights.

BY THE COURT:

/s/ Maureen P. Kelly
MAUREEN P. KELLY
UNITED STATES MAGISTRATE JUDGE

cc: David E. Beal
187 Lilac Lane
Mt. Pleasant, PA 15666

All counsel of record via CM/ECF